

REMARKS

Reconsideration of the application is requested in view of the above amendments and the following remarks. New claim 43 has been added and tracks the limitations of allowed claim 38.

Objections

The specification has been amended to correct some formal errors in numbering. No new matter has been added.

§ 102 Rejections

Claims 1-3, 5, 6, 13, and 16-18 were rejected under 35 U.S.C. § 102(b) as being anticipated by Doyle (U.S. 5,961,042). Applicants respectfully traverse this rejection.

Doyle discloses a fire and water display that includes a self-entraining nozzle 26 having a gas line 48 and a water tube 24 that direct gas and water, respectively, into a Venturi 64. A gas and water mixture exits the top, open end of the Venturi 64 where the gas is ignited by the pilot light and ignition system 66. In operation, air from above the surface of the pool water in which the nozzle 26 is positioned is sucked under the bottom edge of the Venturi 64 by forces generated when the gas and water mixture exits out of the top, open end of the Venturi 64. See column 2, lines 16-23 of Doyle.

The nozzle 26 is "placed in a pool with the top of the nozzle above the surface of the pool" (see column 2, lines 16-18) to create the proper flow of air into the Venturi 64 as described above. As shown in Figure 3 and described at column 2, lines 37-40 of Doyle, the pool water level should range from below the top of the Venturi 64 to approximately 1 inch below the top of the Venturi. Therefore, Doyle fails to disclose "a manifold completely disposed within the liquid," as required by claim 1.

Doyle also fails to disclose "an air source, wherin the air source is configured to deliver air to the manifold space," as required by claim 2. Doyle discloses a configuration in which air is provided in Venturi 64 only when suction forces are generated by the water and gas mixture exiting the top of Venturi 64. The air residing above the surface of the pool is not a source of air that is capable of delivering air to a manifold space. The source of air disclosed by Doyle is

merely a passive source of atmospheric air. Therefore, Doyle fails to disclose every limitation of claim 1 and the claims that depend from it for this additional reason.

Doyle also fails to disclose any structure or feature that is "disposed in the liquid to surround the manifold and isolate the supply of liquid from the liquid," as required by claims 5 and 17. Therefore, claims 5 and 17 are separately allowable.

As discussed above, Doyle discloses a gas line 48 that delivers a supply of gas into the Venturi member 64. Gas from the gas line 48 mixes with water from the tube structure 24 within the Venturi member 64, and the mixture of gas and water exits through the top, open end of the Venturi 64. The gas line 48 may, for the sake of argument, be comparable to the "tube defining a passage" required by claim 13 that "is configured to deliver combustible gas to the manifold space." Doyle fails to disclose a pump that is "configured to deliver a supply of liquid to the manifold through the passage," such that "the combustible gas and the supply of liquid are delivered to the manifold space through the passage," as required by claim 13. As noted above, Doyle discloses delivery of combustible gas through gas line 48 to the Venturi 64 and separately delivering a liquid (water) through the tube 24 to the Venturi 64. Doyle fails to disclose a separate "passage" in which the gas and liquid are both delivered to a manifold. Therefore, Doyle fails to disclose every limitation of claim 13 and the claims that depend from it. Withdrawal of the rejection is respectfully requested.

§ 103 Rejection

Claim 19 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Lin (U.S. 6,565,940) in view of Doyle, Applicants respectfully traverse this rejection.

Lin discloses a floating fountain that includes a platform 10, an ornamental object 20, a floating member 30, a tube 40, a weighted member 50, and a hose 60. The platform, ornamental object, and floating member each include a single aperture that when aligned coaxially provides a fluid path (202, 204) for water to travel. When the hose and tube are coupled to the ornamental object, water can flow from the hose, tube, and ornamental object and out the top of the passage 202. Lin provides no disclosure or suggestion of passing any substance through the floating fountain besides water or a like liquid. Furthermore, Lin fails to disclose or suggest more than

one aperture that extends through any of the features of the floating fountain, the use of more than one tube or hose, mixing any foreign substance (e.g. combustible gas) in a liquid that passes through the floating fountain, or the use of some feature of the floating fountain as a manifold.

Without such a disclosure or suggestion of alternative functions or use for the fountain disclosed by Lin, there is no motivation to combine the solely liquid-based floating fountain of Lin with the fire and water display device disclosed by Doyle. As noted above, Doyle requires the use of two separate substances (a combustible gas and water) that are fed through separate lines 48, 24 and combined in a Venturi 64 before exiting an open top end of the Venturi where the combustible gas is ignited. Thus, without a suggestion in Lin of adding more than one aperture or passing more than one substance through the floating device, Applicants submit that it would be improper to combine the teachings of Lin with Doyle.

Furthermore, Doyle discloses that the tubular structure 24 is "anchored to the bottom of the pool." See column 1, lines 57-61 of Doyle. The Venturi 64 is coupled to the tube structure 24 via the support members 62. Doyle does not disclose any floating features or features that are capable of floating. Therefore, Doyle teaches against a floating device because the device is specifically required to be fixed to the bottom of the pool and cannot float. Thus, it is improper to combine the disclosure of Doyle with the disclosure of Lin for this additional reason.

Applicants note that independent claim 21 was not addressed in the present Office Action. Applicants' representative Joshua Randall (Reg. No. 50,719) discussed this issue with Examiner Bui by telephone on June 8, 2004. Examiner Bui indicated that he would restart prosecution of claim 21 on the merits after receiving a response from the Applicants related to the present Office Action.

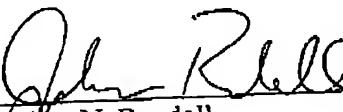
New claim 43 tracks the limitations of claim 38 with some modifications to the step of "shielding". Consideration and allowance of new claim 43 is respectfully requested.

In view of the above, Applicants requests reconsideration of the application in the form of a Notice of Allowance. If a phone conference would be helpful in resolving any issues related to this matter, please contact Applicants' attorney listed below at 612.371.5387.

Respectfully submitted,

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